

Testimony

Provided By

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On

H.R. 4841

Before the

**Committee on Natural Resources
Subcommittee on Water and Power
United States House of Representatives**

March 13, 2008

**House Committee on Natural Resources
Subcommittee on Water and Power**

H.R. 4841

The Soboba Band of Luiseno Indians Settlement Act

**Written Testimony by Randy Record, Board Member
Eastern Municipal Water District
Metropolitan Water District of Southern California**

Good Afternoon, Madam Chairwoman and other distinguished members of the subcommittee.

My name is Randy Record, and I am a Board Member for the Eastern Municipal Water District (EMWD) located in Riverside County, California. I also serve as EMWD's representative on the Board of the Metropolitan Water District of Southern California (MWD). On behalf of EMWD and MWD and their Boards of Directors, I would like to thank Congresswoman Bono Mack for introducing H.R. 4841, and Congressmen Jerry Lewis and Joe Baca for co-sponsoring the legislation.

As a fifth-generation San Jacinto native and a farmer who has been active in the farming community for over three decades, I know all too well the importance of a reliable water supply for the inhabitants and the agriculture industry of the San Jacinto Valley. I also know it is crucial to the San Jacinto Valley to end the long standing conflicts that have existed between the Soboba Band of Luiseno Indian Tribe (Tribe) and the local water districts and cities.

H.R. 4841 is the result of many years of discussion and negotiation. Back in 1933, MWD began work on a 242 mile aqueduct that would bring water from the Colorado River to Southern California. One of the many tunnels that would be needed for the project included the 13 mile

tunnel that would be carved through Mt. San Jacinto about 3.5 miles northwest of the Tribe's reservation. During construction of the tunnel, huge amounts of groundwater in storage deep under the mountain were released, and thousands of gallons of water suddenly burst into the tunnel, impacting the water resources of the Tribe's reservation and the San Jacinto Valley. Attempts to prevent this inflow were only partially successful because of the high pressure and the inflow continues to the present, averaging about 5,000 acre feet per year.

As a result of seepage of this native groundwater into the tunnel, in 1950 Eastern Municipal Water District was formed and annexed to MWD for the purpose of reclaiming the seepage water and to receive imported water from the Colorado River, ensuring a firm water supply to the residents of the San Jacinto Valley. Also in 1950, the Tribe sued the federal government for failure to protect its water resources. The government settled that lawsuit in 1991 and thereafter joined with the Tribe to negotiate the resolution of the Tribe's water related claims.

These negotiations initially included EMWD (which had agreed to assume a portion of the potential liability for damages (loss of water) caused by seepage of groundwater into the tunnel as a condition to annexation to MWD) and Lake Hemet Municipal Water District (Lake Hemet). Initially, MWD did not participate in these discussions and in April of 2000, the Tribe filed a lawsuit in federal court against MWD, alleging that MWD's construction and operation of the San Jacinto tunnel portion of the Colorado River aqueduct interfered with the Tribe's water rights and that the seepage into the tunnel resulted in loss of surface waters and declining groundwater levels on the reservation. MWD cross-complained in that litigation against EMWD, based on EMWD's assumption of some portion of the potential liability related to the

tunnel seepage. EMWD currently receives an annual credit equal to the value of the seepage water and generally passes this credit along to its customers in the form of reduced water rates.

There have been many, many negotiating sessions since the mid 1990's, trying to resolve our differences in a mutually acceptable manner. Extensive gathering and analysis of technical data, exchange of proposals and concepts on a cooperative basis have resulted in the Settlement Agreement that is the subject of H.R. 4841. In general, the Settlement Agreement establishes quantified water rights for the Tribe, outlines the methods to be employed to assure the availability of that supply, provides a method by which a portion of that supply will be made available for use by local public agencies until needed by the Tribe, and provides for compensation to the Tribe for that use and compensation for the Tribe's past damages in the form of cash payments and transfer of property. The Settlement Agreement also provides for financial contribution by the federal government toward the cost of construction of facilities needed to import and recharge water needed to implement the agreement and for construction of water and sanitation facilities on the Reservation.

The specific key provisions of the Settlement Agreement are as follows:

1. The Tribe's water right is quantified at 9,000 acre feet per year;
 2. MWD will provide an average of 7,500 acre feet of low-cost water per year,
- which is the difference between the Tribe's current average use of 1,500 acre feet per year and its total quantified right; the groundwater basin is overdrafted so anything the Tribe pumps over 1,500 acre feet would require other pumpers to cut back or would increase the overdraft. The MWD water is a key component of the settlement;

3. EMWD, Lake Hemet, the Cities of Hemet and San Jacinto, and the private groundwater producers have established a Water Management Plan to provide a financing mechanism for the purchase of the MWD water and to address the groundwater basin overdraft, principally through replenishment charges on groundwater pumped. This management plan will be established as the “physical solution” in a groundwater adjudication filed in state court for that purpose. The Tribe and the federal government must approve the management plan;

4. The Tribe has agreed to limit its water use to approximately 4,100 acre feet for fifty (50) years; the local communities will have access to the use of the Tribe’s unused water for 50 years (approximately 5,000 acre feet per year) in return for the payment of \$17,000,000;

5. EMWD, Lake Hemet and the Cities will undertake the cost of constructing additional facilities needed to import the MWD water and to recharge the groundwater basins; the federal government will contribute \$10,000,000 toward the currently estimated total cost of \$23,000,000 for those projects. In addition, EMWD is contributing its existing facilities that will be a part of that project and which have an estimated value of \$10,000,000;

6. EMWD will transfer approximately 110 acres of land it owns near the main entrance to Diamond Valley Lake to the Tribe, and MWD will transfer an adjacent 16 acres as well, both for commercial development, not including a casino. EMWD will also provide \$1,000,000 in credit against water and sewer connection fees for that development;

7. Lastly, the federal government will pay \$11,000,000 to the Tribe for on-reservation water and sewer infrastructure.

Benefits that will result from the Settlement Agreement as approved by the legislation are many and extend beyond the Tribe to all inhabitants of the Hemet/San Jacinto Valley. These

benefits will provide quantified water rights to the Tribe, set a mechanism in place to assure the availability of water to satisfy those rights, provide a mechanism for the use of waters not needed by the Tribe by local agencies while providing compensation to the Tribe and providing additional compensation to the Tribe for past damages in the form of cash and property. In addition, the Groundwater Management Plan will provide for the eventual elimination of the current overdraft and will provide for water quality monitoring and protection. Sewering infrastructure on the reservation will provide groundwater quality protection.

H. R. 4841, the Soboba Band of Luiseno Indians Settlement Act, is particularly important now as California is experiencing crucial water challenges. This legislation will help secure the future of the San Jacinto Valley's growing population and existing agriculture industry, and will help stabilize our valley's economic future. Thank you for your consideration; it has been a privilege to speak before you today to express EMWD and MWD's support for H.R. 4841.